

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

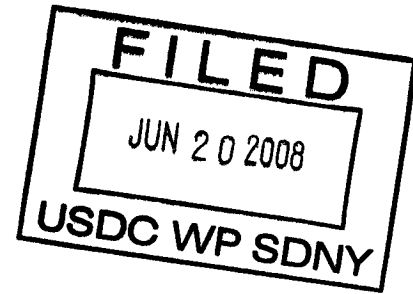
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DANIEL HERRICK, on behalf of himself and  
all other similarly situated

Plaintiff,

-against-

UNITED RECOVERY SYSTEMS, LP  
and JAMES A. WEST, P.C.

-----  
Defendant.



**08 CIV. 5569**  
**JUDGE CHIN**

Plaintiff, by and through his undersigned attorney, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above named defendants and in support thereof alleges the following:

#### **PRELIMINARY STATEMENT**

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages arising from defendant's violation of section 1692 et seq. of Title 15 of the United States Code, the Fair Debt Collection Practices Act, which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

#### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. section 1331. This is an action for violation of 15 U.S.C. section 1692.

3. Venue is proper in this District under 28 U.S.C. section 1391(b)(2).

#### **PARTIES**

4. Plaintiff Daniel Herrick is a resident of the State of New York, New York County.
5. Defendant United Recovery Systems, LP is a Texas Limited Partnership engaged in the business of collecting debt. The principal purpose of defendant is the collection of debt using the mails and defendant regularly attempts to collect debts alleged to be due another. Its Registered Agent is the CT Corporation System, 111 Eighth Avenue, New York, New York 10011.
6. Defendant James A. West, P.C. is a Texas professional corporation that is engaged in the collection of debt.

#### **CLASS ALLEGATIONS**

7. Plaintiff brings this action as a nationwide class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of himself and all consumers who have received debt collection letters from the defendants which are in violation of the FDCPA as of the date of plaintiff's complaint and their successors in interest (the "Class"). Excluded from the Class are the defendants herein and any person, firm, trust, corporation or other entity related or affiliated with the defendants, including without limitation, persons

who are officers, directors, employees, associates or partners of United Recovery Systems, LP and James A. West, P.C.

8. This action is properly maintained as a class action. This class satisfies all the requirements of Rule 23 for maintaining a class action.
9. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, hundreds of persons have received debt collection notices from the defendants which violate various provisions of the FDCPA.
10. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual class member. These common questions of law and fact include, without limitation:
  - a. Whether the defendants violated various provisions of the FDCPA, including, but not limited to 15 U.S.C. 1692e, 1692e(3), 1692e(5), 1692e(10) and 1692g(a)(4);
  - b. Whether plaintiff and the Class have been injured by the defendant's conduct;
  - c. Whether plaintiff and the class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution, and
11. Plaintiff's claims are typical of the claims of the Class and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

12. Plaintiff will fairly and adequately protect the interests of the Class and have retained experienced counsel competent in the prosecution of class action litigation.
13. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of the class action.
14. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without duplication of effort and expense that numerous individual actions would engender. Class treatment will also permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill gotten gains.

STATEMENT OF FACTS

15. On or about May 4, 2007, defendant United Recovery Systems, LP sent a collection letter to plaintiff demanding payment of a debt allegedly owed to American Express Co. A copy of said letter is annexed hereto as **Exhibit A**.
16. On or about May 15, 2007, a letter of dispute was sent to United Recovery Systems, LP. **Exhibit B**.
17. Despite the timely dispute, James A. West, P.C. issued a debt collection letter concerning a disputed debt. **Exhibit C**.
18. Upon information and belief, defendants operate in a manner whereby a collection agency issues attorney letters.
  19. Upon information and belief, James A. West, P.C. allows the issuance of attorney collection letters absent knowledge of the matter.
  20. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

**FIRST CAUSE OF ACTION**

21. Each of the above allegations is incorporated herein.
22. Defendants collection letters violate and overshadow various provisions of the FDCPA including but not limited to 15 U.S.C. sections 1692e, 1692e(3), 1692e(5), 1692e(10) and 1692g(a)(4) by allowing attorney debt collection letters to be issued despite timely dispute of the debt by the consumer.
23. As a result of defendant's violations of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney fees.

**WHEREFORE**, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding plaintiff costs of this action
- d) Awarding class members the maximum statutory damages; and
- e) Awarding plaintiff such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Dated: June 20, 2008

Uniondale, New York

  
KLEINMAN LLC

Abraham Kleinman AK-6300

626 RexCorp Plaza

Uniondale, New York 11556-0626

Telephone (516) 522-2621

Fax (888) 522-1692





5800 North Course Drive  
Houston, Texas 77072



UNITED RECOVERY SYSTEMS

WWW.URS.COM

LP

May 4, 2007

Address Service Requested

8300 North Course Drive, Houston, Texas 77072

United Recovery Systems, LP

0804/432

Daniel P. Hock

16200 North Course Drive, Houston, Texas 77072

New York, NY 10001-7707

Date: May 4, 2007

Creditor: American Express Co.

Account No.: 373170044172005

URS No.: 0804/432

Amount Due: \$8,334.57

Telephone: 800-326-3146, ext 3169

United Recovery Systems, LP

P.O. Box 722929

Houston, TX 77272-2929

United Recovery Systems, LP

Please detach at perforation and return with your payment

**YOUR DELINQUENT ACCOUNT HAS BEEN REFERRED TO THIS OFFICE FOR COLLECTION!!!**

Please remit payment in full of any undisputed amount payable to our client, in the enclosed envelope.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within the thirty day period that the debt, or any portion thereof, is disputed, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you the name and address of the original creditor, if different from the current creditor.

We want that your intention is to address this long overdue debt. Please call your account representative to make payment arrangements. If you wish to make payment arrangements, you can call our office 24 hours per day at 800-326-3146, ext. 3169 so we can assist you in resolving this matter. As of the date of this letter you owe the amount stated above. Because your account may accrue interest, late charges and other charges that may vary from day to day, the amount due on the date you pay may be greater. If you pay the amount above an adjustment may be necessary after we receive your check. If so, we will contact you. For further information about your balance please call your account representative.

This communication is from a debt collector. We are required to inform you that this is an attempt to collect a debt and any information obtained will be used for this purpose.

Directly

UNITED RECOVERY SYSTEMS, LP

United Recovery Systems, LP

P.O. Box 722929

Houston, TX 77272-2929

Indication of original

Make Reverse

This company must comply with a federal law that provides consumers with certain rights. One of these is the right to have us stop communicating with you about this debt. If you write to us and ask us to stop communicating with you about this debt, we will, but if you owe this debt, you will still owe it and the debt may still be collected from you. If you have a complaint about the way we are collecting this debt, you may write to our CONTACT CENTER, 5800 North Course Drive, Houston, TX 77072 or call toll free at (800) 326-8040 between 9:00 A.M. CST and 5:00 P.M. CST Monday-Friday.

New York City Department of Consumer Affairs License Number 1176730.

5800 North Course Drive Houston, Texas 77072





**SHAKED & POSNER**

ATTORNEYS-AT-LAW  
255 WEST 36<sup>TH</sup> STREET  
8<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10018

TEL (212) 300-2091

FAX (212) 300-2010

DAN SHAKED

MICHAEL C. POSNER\*

\*ALSO ADMITTED IN NJ

May 15, 2007

United Recovery Systems, LP  
Attn: Dispute Department  
PO Box 722929  
Houston, TX 77272-2929

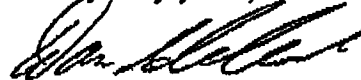
Re: American Express w/Daniel Herrick  
URS No. 08341442

To Whom It May Concern:

PLEASE BE ADVISED THAT PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. §1692c(c), Daniel Herrick wishes United Recovery Systems to cease further communications with Daniel Herrick in his capacity as a consumer. ✓

This letter shall further advise that Daniel Herrick disputes the validity of the debt as provided by 15 U.S.C. §1692g.

Very truly yours,



Dan Shaked, Esq.

Law Offices of  
**JAMES A. WEST, P.C.**  
11111 Harwin Drive  
Houston, TX 77072-1612

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(800) 568-4116  
(713) 260-7627

June 21, 2007

**Dan Shaked**  
Attorney at Law  
255 West 36TH Street 8TH Floor  
New York, NY 10018  
|||||

Your Client: Daniel Herrick  
Our Client: American Express Co.  
Account No.: 373170044172005  
Current Balance Due: \$9044.74

Please be advised that this firm has been retained to collect your client's account as referenced above. Please direct your client's payment in the form of check or money order payable to my client, to the address shown above.

Our client has asked us to negotiate with you to help your client resolve this debt. Please contact my office to assist you to accomplish this. We are willing to work with your client. Please call 866-284-4374 and ask for TANYA SIMPSON at extension 133. However, if we do not hear from you, we will be forced to report to our client that your client is not willing to resolve this matter and they should, therefore, authorize appropriate actions.

Unless you notify this office within thirty (30) days after receiving this notice that your client disputes the validity of this debt or any portion thereof, I will assume this debt to be valid. If you notify this office in writing within thirty (30) days of receipt of this notice, we will obtain verification of the debt and mail you a copy of such judgment or verification. If you request from this office in writing within thirty (30) days after receiving this notice, we will provide you with the name and address of the original creditor, if different from the current creditor.

This communication is from a debt collector. We are required to inform you that this is an attempt to collect a debt and any information obtained will be used for this purpose.

Sincerely,

  
Michael J. Young  
Attorney at Law

**Exhibit C**